P.J. 32-98

G. R. S. IX-5]

Previous references. (1897-98)

191

(L. R.)

Later references.

File No. 81-97

Serial Nos. 1 - 5

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 - 5

In ~~Part~~ B for October 1898

SUBJECT.

Dispute of Kesapia rights in the Shambhoji Chikka Kodapinadalli and 2 other villages Chikkaballapur Tk.

W D 1250—GPB—30,000 - 28-1-19

Index

Before the Government of Mysore.

Appeal No. 1 of 1898-99

Appellant.	Vs.	Respondent.
Chikkappa son of Subbanna of Agalagurki, Chikkaballapur Taluk.		(1) Ramappa (2) Venkatappa.

Subject:- Dispute regarding the Shanbhoge of Chikka Konjanahalli & other villages, Chikkaballapur Taluk.

1898

No. 2728 (1)

Name of Petitioner Seenappa, Son of Subbanna, Steen Panchayat of

Village

Taluk

Date of Arzi

Date of Receipt

Date of Disposal

No. of Enclosure One

ABSTRACT

Final order in the appeal against judgment dismissing the appeal and suit filed by the petitioner for the establishment of the petitioner to and for the protection of the Dharkast of the village of Chickaballapur and other lands in the Chickaballapur Taluk on the ground that the appellant's claim was untenable and in part allegations.

The Chief grounds of

of appeal, all of which
are stated in English in the
etn, are as follows:—

1) That the Dy Commr's judgment was
unjust and the reason given by him unsound.
2) That the Dy Commr failed to make the
necessary enquiry regarding the rights between
the parties and the enjoyment of the licensees.
3) That the Dy Commr did not satisfy himself
whether the defendants had any right to the
Tree.
4) That the discharge of duties for a certain number
of years is no guide in determining the period
of limitation.

&c &c

Prays that the case may
either be remanded for further
enquiry or the question of right
of the office in question may
be determined upon the
documentary evidence produced
in the case.

Enclosure.

Copy of judgment appealed
against.

DK
7/5/98

7/5/98

2725

Box - 1 to Bal Branch 2d 5/5/98

MYSORE COURT FEE

MYSORE DEWAN'S OFFICE
PETITION DEPARTMENT.
REG'D. NO. 2728/98
DATE 5-5-98

The Secretary to the Government of Mysore,

General and Revenue Department.

Revenue Appeal Case No. 1 of 1898-99.

Appellant -

Seshayya, son of
Seshanna, Shanbhogue of Kyatanna
and other villages
(Plaintiff)

Versus.

Respondents -

Ramayya, son of
Thimmayya.
Narasimhayya, son of
Seshayya -
(Defendants)

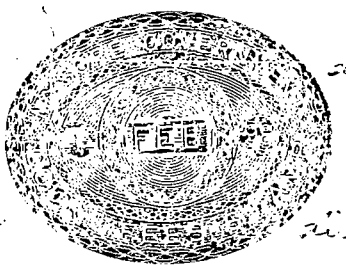
The appellant begs to prefer this appeal to Government against the appellate judgment of the Deputy Commissioner of Kolar in Revenue Appeal Suit entitled number and dated for the following reasons: -

(1) That the Sub-Division Officer failed to decide the important rights involved in the case.

(2) That several witnesses had been cited and that the case was adjourned several times for enquiry.

(3) That the Sub-Division Officer erred in dismissing the suit on the technical ground that Appellant was not made a party.

(4) That the Sub-Division Officer might have made Appellant a party to the suit or else given him Appellant the usual Procedure Code, if he thought that owing to procedure error technical objection the rights of the rights involved.



(5) That the Sub-Division Officer did not decide the question whether Appellant rights independently

independently of the Plaintiff.

(6) That none of the defendants have taken that the registry of the Shanbogue Office was in the name of their ancestors in their own right as alleged by them.

(7) That the documents produced in the case clearly show that the Shanbogue Office was mortgaged by Plaintiff's ancestors to Venkatarangappa and that the defendants' ancestors did the work as Venkatarangappa's or Appoo Rao's Gumastas.

(8) That in the Shanbogue Register Ex. Exhibit P. - Chagappa, the brother of the 1st Defendant, is shown as Gumasta (ಗುಮಾಸ್ತ).

(9) That at the partition-panchayat time the Sarpanch Channappagouda which ended up in that time was elected and with the rights of Appoo Rao, if any, also vested.

(10) That the distribution of the village servicing certain fields during the time of partition-settlement was only a matter of administrative convenience which certainly did not deprive the appellant's title.

(11) That the question of limitation does not arise in the case inasmuch as the defendants are only Gumastas having no independent right and that the Plaintiff and his ancestors, Patrons - are the landlords.

(12) The lower Court erred in not recording the evidence of witnesses summoned in the case.

(13) That the lower Court failed to consider that the Plaintiff and the defendants were not related to each other on the other hand that the Plaintiff is a "Kannada", that the 1st Defendant is "Tamilandha" and that the 2nd Defendant is "Badagandu". Brahmin.

(14) That the judgment of the Deputy Commissioner is

Bangalore
Dated

merger and the reason given by him is unsound.

(10) That the Deputy Commissioner failed to make the necessary enquiries regarding the rights between the parties and the enjoyment of "Kirane" and other properties of the Mangalore Urban Land, as envisaged in Article 12 (a) of the Schedule of the Constitution Act, before recording his finding whether there was any question of limitation.

(11) That in conferring a valuable right such as the one to the Mangalore Office in question, the Deputy-Commissioner should have satisfied himself whether the defendants had any right in themselves to the office

(12) That the direction of studies for a certain number of years is no guide in determining the point of limitation in the absence of a finding as to the rights asserted in the Case.

(13) That, in conclusion, the appellant submits that the enquiry in both the lower Courts has been very meagre and therefore, inasmuch that the case may either be remanded for further enquiry on the question of right to the office in question may be determined upon the documentary evidence produced in the case.

Dated, Bangalore,
2nd May 1898.

ಅಪೀಲುದಾರರ ಪರವಾಗಿ ವಕೀಲರು

MYSORE DEWAN'S OFFICE,

DEPARTMENT

MEMORANDUM.

The accompanying Appeal Petition registered No. 2726 dated 2nd May 98 received at the Dewan's Office from [illegible]

is forwarded, together with its enclosure, to the Deputy Commissioner of [illegible] District for submission of the entire proceedings connected with the case.

2. The petition with its enclosure should be returned.

By order,

BANGALORE,
23rd July 1898.

M.G.C.P.B.—25-7-98—[illegible]

Lid 81-97-3

Gen. 31.

Petitions 152 (3)

17898

Rejd post 8h

12/8/98

Subd

mg

13/8/98

Put for hearing

Mg 10/8/98

P.S How many cases below 520 are accumulated?

Mg

From The Deputy Commissioner
of Kolar District

To

The Secretary to the
Government of Mysore.
Revenue and General Depts

Dated 8.8.98.

Despatched 9.8.98

Received

General No. 608 } 1898.99
No. 162

Enclosures No. 2 with records as per index sent separately by parcel post

With reference to Government official Memorandum No. Rel 60 dated 28th July 1898, herewith the Inam Statement connected with the Siddaraj agraharam Kodiganahalli and 2 other villages in the Chickballapur Taluk.

The petition and other enclosures are returned herewith; the copy of the judgment referred to having been extracted.

Yours obedt
Deputy Commissioner
Kolar District

L.R. 81-97-5 (5) Draft

Proceedings of the Govt of Mysore

Appellant: Seshappa of Chikballapur

Respondents: 1. Ramappa 2. Venkatappa

Read:—

(1) Petition of appeal No. 4 of 1898-99 presented by Seshappa against the decree of the Sr. Comm. in Appeal No. 107-97-98 of Kolar, affirming that of the Sub-D. officer of Chikballapur dismissing the appellant's suit for the adhikara of Immankalli and Bammakalli Pirkis of the Chikballapur Taluk.

(2) Records of the case received with the Kolar Sr. Comm's docket No. 608/1621 dated 8th August 1898, from which the facts appear to be briefly as follows:—

In 1896, appellant-Seshappa filed a suit in the Court of the

Draft for approval
Sub Lt Council
Mg 30/9/98
9967 GSL
30/9/98

Sub Lt Rev & Ag
Mg 1/10/98
J Shea
Mysore Rev Asst
Mg 1/10/98

57

Relinquishment by Appellant
could not operate to vest any fresh
title in the office in the appellant,
and accordingly dismissed his
appeal. The present appeal
is against the above decision.

— 4 —

Order Union. No. 3033 / 1732-98 dt. 8.10.98

You observe that the
appellant's claim is clearly
barred by limitation, as
it and his father have been
out of possession and enjoy-
ment for more than 12 years
The appeal is therefore rejected.

Draft:

For Secretary.

To

The Dy Commr
Kolaba District
with records.

S.C.
24.1.99

8/11/1898

the respondents in 1877-80; that
after the Shankhagi Service Inam was
charged with full assessment;
Appn Rev Relinquished his right
to the office in question as well as
the Inam attached to it, in favour
of the appellant; that the
and that the appellant therefore
the proper person to the office. The
respondents denied the truth of
the appellant's allegations and
urged that the Shankhagi of the
two Fakirs had been in their
families from the time of their
great grandfather. The Sub Collector
dismissed the suit on the ground
that it was time barred and
the Revenue Board also
the Dy Commr, on appeal, held
that the appellant's father parted
with the office more than 12
years ago, and that the alleged

Sub Dr Officer of Chikkanayakanahalli for
recovery of the Shanbhogi of
Immadihalli from 1st respondent-
Ramaiya and that of the Fifth
consisting of Bommanahalli and
Chikk Kadiyanahalli from the
2nd respondent-Varadappa, stating
that his ancestors and those of the
Appa Rao were respectively the
Shanbhogs and Sarkar Shanbhogs of
5 villages including the 3 in
question, but that after some time
they divided the villages between
themselves, the villages in question
falling to the share of Appa Rao's
family, that after the death
of Appa Rao's father Appellants'
father did the duties of all the
villages till Appa Rao took
back his villages and gave
them to the respondents
fathers who were succeeded by
the

(4) నల్గొండ జిల్లా మునుగోడు

LR 81-974